

CC Docket No. 02-6

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FCC Mail Room

Request for Review

Marlene H. Dortch, Secretary

Federal Communications Commission

Office of the Secretary

445 12th Street, SW

Washington, DC 20554



West Fargo Public School District

District Office – 207 West Main Ave. – West Fargo ND 58078

Ben Koppelman Board President
Patti Stedman Board Vice President
Kay Kiefer Board Director
Angela Korsmo..... Board Director
Judy Kvaale..... Board Director
Karen Nitzkowski..... Board Director
Dave Olson..... Board Director

Dr. David Flowers Superintendent
Louise Dardis..... Assistant Superintendent
Beth Slette..... Director of Assessments & Federal Programs
Marian Bell..... Special Education Director
Pete Diemert..... Building & Grounds Director
Robin Hill..... Human Resources Director
Robert Kaspari Technology Director
Mark Lemer Business Manager
Brad Redmond..... Transportation Director
Jan Sliper Food Service Director

January 31, 2012

CC Docket No. 02-6 Letter of Appeal

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street SW
Washington, DC 20554

To Whom It May Concern:

This is an appeal

I am filing an appeal to a **Funding Commitment Decision Letter for Funding Year 2011** regarding a request for funding for the West Fargo School District. Please consider this provided relevant information:

Appellant name: Robert Kaspari for the West Fargo School District #6
Appellant's service provider: IdeaOne Telcom Group, LLC
SPIN: 143018988
Form 471 Application Number: 782828
Billed Entity Number : 134356
Billed Entity FCC RN: 0002447399
Applicant's Form Identifier: HAR2011

I am specifically appealing the decision sent to me in a letter dated December 28, 2011, to deny funding that is based on **DR1: The Form 470 that established the competitive bidding process for this FRN did not include service of this type; therefore it does not meet the 28 day competitive bidding requirement.** (attachment "A")

Consequently, from that original denial decision, I appealed this decision to USAC and my appeal was denied. Therefore, I am appealing the decision by USAC dated January, 23, 2012. I believe there are relevant facts to be considered.

I am basing my appeal on the following:

1. The district did, in fact, conduct a competitive, advertised bidding process in addition to what is required by USAC rules. In order to comply with our state and local bidding requirements, we

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requested bids for internet access. We met the 28 day waiting period as required by the Schools and Libraries Division with our bidding process. When the bids were opened, IdeaOne Telecom Group was the lowest bidder and the West Fargo School Board of Education awarded the bid to them as per the district and state bidding rules.

2. The bidding was open to providers of both internet access and telecoms as evidenced by the bids received.
3. In this market, telecoms provide internet access and internet access providers offer telecom services. The bidding was open to both types of providers and given all due consideration.
4. There is nothing in the 470 application that is in dispute, except for a category of service that was misidentified. I am asserting that this was nothing more than a clerical error.
5. I do not believe that the misidentified category was clearly described to me initially by the PIA reviewer, and when it was, I tried to make the correction and I was told that I had to wait until the request was formally denied. That formal denial did not come until early January 2012. By the time this request was formally denied, it was too late to make any administrative corrections that would have corrected this situation. This could have been better communicated to me at the time of the initial denial. My attempts to correct this is included in my communication to the reviewer dated June 06, 2011, in which I answer requested questions and assert that the services requested are for telecommunication services. Unfortunately, I did not notice and correct the previous clerical error this time either, however I did explain that the Form 470 request for services should be for "telecommunications services". This was the intention all the time. This is evidenced by the attachment "B" I have included. I clearly state that the service we are seeking is "telecommunications services".
6. I am requesting that the decision by USAC be reconsidered in light of the information that I have provided and that if any more information is required to help you to fully understand this situation, please contact me. Thank you for your time considering my request for an appeal to the USAC decision.

Sincerely,



Robert Kaspari
Technology Director
West Fargo Public Schools
207 Main Avenue
West Fargo, ND 58078

Attachments are marked : A, B, C



West Fargo Public School District

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Appellant's service provider: IdeaOne Telcom Group, LLC
SPIN: 143018988
Form 471 Application Number: 782828
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Billed Entity FCC RN: 0002447399
Applicant's Form Identifier: HAR2011

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Should the Commission choose to impose regulatory mandates regarding backup power, EGSA urges it to do so deliberately and with a mind to the degree of variability and technical complexity that exists among networks and within the communications infrastructure as a whole. A slow and measured pace in adopting such regulations is considerably preferable to a hurried approach that could result in an incomplete or misguided regulatory framework.

EGSA appreciates the opportunity to comment on the issue of backup power and stands ready to assist the Commission in any way it can to facilitate most extensive deployment of backup power throughout the nation's broadband and telecommunications infrastructure. Pursuant to Section 1.1206 of the Commission's rules, an electronic copy of this letter is being filed for inclusion in the above-referenced dockets.

Respectfully submitted,

A handwritten signature in blue ink, reading "Jalane Kellough". The signature is fluid and cursive, with the first name "Jalane" being more prominent than the last name "Kellough".

Jalane Kellough
EGSA Executive Director

ATTACHMENT "A"

Robert Kaspari
West Fargo Schools
207 West Main Avenue
West Fargo, ND 58078

Billed Entity Number: 134356
Form 471 Application Number: 782828
Form 486 Application Number:



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2011-2012

January 23, 2012

Robert Kaspari
West Fargo Schools
207 West Main Avenue
West Fargo, ND 58078

Re: Applicant Name: WEST FARGO SCHOOL DISTRICT 6
Billed Entity Number: 134356
Form 471 Application Number: 782828
Funding Request Number(s): 2120873
Your Correspondence Dated: January 15, 2012

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2011 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 2120873
Decision on Appeal: **Denied**
Explanation:

- USAC has determined that the category of service for this funding request should be Telecommunications Service. According to information submitted in support of this funding request, the funds requested are for dedicated point to point gigabit Ethernet connection between West Fargo High School and Harwood Elementary School. This funding request was correctly categorized by West Fargo School District 6 (the District) as Telecommunications Service on the Form 471 (Block 5, Item 11). The Funding Year 2011 Form 470 Application Number 750130000841306 did not post for this service category, which is a violation of the 28 days competitive bidding requirements of this support mechanism. The record shows that Program Integrity (PIA) contacted you and made you aware of the program violation. You were requested to verify if the referenced Form 470 was the establishing Form 470 for these services requested. Additionally, you

were given an opportunity to cite an alternate Form 470 in order to cure the program's violation. In an e-mail dated June 8, 2011, you stated that the Form 470 establishing the bidding requirement for the requested services is Form 470 application number 750130000841306. As this information was the same as the original input, the program violation was not cured and the request was denied. On appeal you assert that due to a clerical error you did not check the correct service category of Telecommunications service on your Form 470.

Applicants receive a Receipt Notification Letter (RNL) upon successful posting of a Description of Services Requested and Certification Form (Form 470) on the USAC website. The RNL includes important deadlines and reminders. Applicants should carefully review the Form 470 RNL and determine whether they need to make corrections to their Form 470. The record shows that the District posted Form 470 application number 750130000841306 online on August 4, 2010 and on August 12, 2010 USAC issued the District a Form 470 Receipt Notification Letter stating that corrections on Block 2, Item 8, Telecommunications service not posted are not allowed on posted Form 470s and the District cannot seek discounts for products or services in a Category of Service on the Form 471 if those services in those categories were not indicated on a Form 470. The District should have posted a new Form 470 and wait the required 28 days to correct this. On appeal, you have failed to provide any evidence that USAC erred in its initial determination or that West Fargo School District 6 is in compliance with the Schools and Libraries support mechanism 28 days competitive bidding requirements. Consequently, your appeal is denied.

- FCC rules require that all products and services for which an applicant requests discounts on an FCC Form 471 must be competitively bid on an FCC Form 470. The FCC Form 470 must include a complete description of the services for which discounts are sought, be posted on the website for 28 days, and applicants must carefully consider all bids received before selecting a vendor, entering into an agreement or signing a contract, and signing and submitting an FCC Form 471. *See* 47 C.F.R. secs. 54.503(b) and (c), 54.511(a) and (c). These competitive bidding requirements help to ensure that applicants receive the lowest pre-discount price from vendors. *See* Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order on Reconsideration, 12 FCC Rcd 10095, 10098, FCC 97-246 para. 9 (rel. Jul. 10, 1997). The only exceptions to the posting requirement are for: (1) contracts signed on or before July 10, 1997 for the life of the contract; and (2) contracts signed between July 10, 1997 and before January 30, 1998 (the date on which the website became operational) for products and/or services provided under such contract between January 1, 1998 and December 31, 1998. *See* 47 C.F.R. secs. 54.511(c).

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you

are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company



Schools and Libraries Division

Jun 06, 2011

Robert Kaspari
WEST FARGO SCHOOL DISTRICT 6
Telephone:
Application Number

(701) 3562000
782828

Response Due Date: June 21, 2011

As we discussed in our conversation, we are in the process of reviewing all Funding Year 2011 Form 471 applications to ensure that they are in compliance with the rules of the Universal Service program. I am currently in the process of reviewing your Funding Year 2011 Form 471 Application. To complete my review I need some additional information. The information needed to complete the PIA Review is listed below.

I.

On your original Form 471 you indicated that Form 470 # 750130000841306 is the establishing Form 470 for the service requested in FRN 2120873. This FRN is for **Telecommunications Services**, but the referenced Form 470 did not post for this service category, which is a violation of the competitive bidding requirements of the Program.

Is the referenced Form 470 the establishing Form 470 for this service? ☒ Yes ☐ No
If the referenced Form 470 is NOT the establishing Form 470 please provide the 15-digit Form 470 number that did establish the bidding for this service.

I am attaching a scanned copy of the "470 Receipt Notification Letter" that I received for this request. It shows that the form 470 was posted on 8/4/2010, and the allowable contract date was 9/1/2010. I believe this shows that this was posted for the time requirement. We did not sign any contract until after the ACD.

The establishing Form 470 is the specific Form 470, which was posted to the USAC website for that particular service for at least 28 days, and pursuant to which a contract was signed or an agreement was entered into with a service provider for that service.

For a request in the Basic Maintenance of Internal Connections (BMIC) service category that was filed prior to May 1, 2005, it is possible that the establishing 470 was filed under the Internal Connections service category (prior to May 1, 2005 the BMIC service category did not exist on the Form 470).

Please note that the establishing Form 470 could have been posted by your State, if the requested services are being purchased off of a State Master Contract. Please indicate if this is the case.

II.

Based on the documentation that you provided during the review of your FY 2011 Form 471 application, FRN 2120873 is a request for Internet access service, but the documentation does not indicate the type of high-speed line you are requesting. Please indicate the type of high-speed line that is being provided (e.g., DS1, T-1, OC3, DSL, ISDN-BRI, ISDN-PRI, etc.). If your request is for ATM, Frame Relay, Ethernet, Fiber Optics, Wireless, or Satellite service, please indicate the bandwidth you are requesting in addition to the type of service.

We are seeking telecommunications services for this school, fiber with 1 Gigabit of bandwidth.

III.

Based on the review of your FY 2011 Form 471 application #782828, for FRN(s) 2120873, the documentation you provided in your Item 21 Attachments is not sufficient to determine the eligibility of your request. The documentation does not clearly identify the products/services being requested in this FRN. Please provide more detailed documentation such as a contract, quote or portion of the bill that identifies the actual products and services being requested. Your documentation should identify the specific products and services such as make, model, and description of the product/service being delivered. If you do not have this information, you will need to contact your vendor and request such documentation. The vendor should be able to provide you with detailed documentation regarding the products/services you are requesting.

We are seeking Telecommunications services for the school to provide data and voice transmission service. I have attached a scanned copy of the Item 21 Attachment to this email.

Any documentation provided must be date on or before the FY 2011 Form 471 application filing window deadline and should clearly identify all of the ineligible charges that were cost allocated out of your request. If you are unable to justify the eligibility of charges requested on your Form 471, the funding request may be reduced or denied.

Please fax or email the requested information to my attention. If you have any questions or if you require a further explanation of this request, please feel free to contact me.

It is important that we receive all of the information requested **within 15 calendar days** so we can complete our review. **Failure to respond may result in a reduction or denial of funding. If you need additional time to prepare your response, please let me know as soon as possible. If you are unable to provide the requested information because your school has closed or will shortly close for summer break, let me know when you will be available to respond to these questions.**

Please advise me if the Contact Person on the application(s) has changed from that on the original application. This change must include the Form 471 application number(s) and be signed by the original application's Contact Person, the original application's Authorized Person or a school official (with name and title provided).

Should you wish to cancel your Form 471 application(s), or any of your individual funding requests, please clearly indicate in your response that it is your intention to cancel an application or funding request(s). Include in any cancellation request the Form 471 application number(s) and/or funding request number(s), and the complete name, title and signature of the authorized individual.

Thank you for your cooperation and continued support of the Universal Service Program.

Michelle Graham-Lyons
PIA Reviewer
Program Integrity Assurance
USAC, School and Libraries Division
Phone# 973-581-7595
Fax# 973-599-6578
E-Mail: mlyons@sl.universalservice.org

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